

RD AN No. 4385 (1980-D)  
August 1, 2008

TO: State Directors  
Rural Development

ATTENTION: Rural Development Program Directors,  
Area Directors, and Area Specialists

FROM: Russell T. Davis  
Administrator  
Housing and Community Facilities Programs

SUBJECT: Single Family Housing Guaranteed Loan Program  
Lender/servicer Real Estate Owned Property Disposition Plans

**PURPOSE/INTENDED OUTCOME:**

The purpose of this Administrative Notice (AN) is to clarify the provisions of RD Instruction 1980-D regarding the content and submission requirements for Single Family Housing Guaranteed Loan Program (SFHGLP) lender/servicer real estate owned (REO) property disposition plans (PDP) and incorporate guidance regarding occupied REO.

**COMPARISON WITH PREVIOUS AN:**

This AN replaces AN No. 4287 which expired on June 30, 2008.

EXPIRATION DATE:  
August 31, 2009

FILING INSTRUCTIONS:  
Preceding RD Instruction 1980-D

## **BACKGROUND:**

Rural Development and the lender/servicer share a common interest to minimize costs and maximize recovery in the disposition of REO guaranteed by Rural Development. RD Instruction 1980.376 provides limited direction on actions needed to efficiently dispose of REO. To establish consistent policies and coordinate relevant aspects of REO disposition, guidance is provided that expands upon inspection requirements, eviction proceedings, necessary content and submission of lender/servicer's PDP, and additional guidance surrounding seller concessions.

## **IMPLEMENTATION RESPONSIBILITIES:**

### **Property Inspection**

The initial property inspection (interior/exterior) will be performed within 20 days following the acquisition of REO subject to compliance with state-specific redemption laws. Documented property inspections allow Rural Development to determine whether the lender/servicer expeditiously performed its obligations related to property possession and preservation. Failure to document property inspections may result in a reduction or denial of the loss claim for negligent servicing.

A lender/servicer may obtain inspections through a property preservation vendor or real estate agent. Lender/servicers may utilize Fannie Mae Form 30, Freddie Mac Form 1013 or similar industry-accepted means of documenting inspections. Verbal property inspection reports obtained from the inspector are acceptable as long as they are documented in the lender/servicer's servicing system. Entries must include the date the comment was created, date of the inspection, condition of the property, and occupancy status.

Occupied properties may limit the lender/servicer's ability to inspect, protect, preserve, market, and sell REO. In circumstances affecting access, the lender/servicer should document those conditions affecting possession and notify Rural Development upon gaining physical access. Lender/servicers will obtain monthly inspections to verify occupancy status until the lender/servicer obtains physical possession.

The cost of property inspections are considered REO management expenses and may be reimbursable to the lender/servicer within the limits of the guarantee. These requirements are permitted under Part I; paragraph B.9 of Form RD 1980-16, "Agreement for Participation in Single Family Housing Guaranteed Insured Loan Programs of the United States Government".

### **Eviction Proceedings**

Eviction proceedings should be initiated on unlawfully occupied properties within 30 calendar days of the foreclosure sale, expiration of any redemption period, or other prevailing state laws affecting acquisition of title. Lender/servicers should retain documentation relating to the eviction (i.e. summons and complaints, Notice to Vacate) in the servicing file along with

comments in the lender/servicer's servicing system indicating date the eviction was initiated, current status, and completion date.

## **Property Disposition Plan Submission**

When a lender/servicer gains possession of REO, the PDP helps ensure that both Rural Development and the lender/servicer have a mutual understanding of how a property will be marketed and what factors might influence the net proceeds from the sale. While Rural Development does not impose specific REO marketing requirements, RD Instruction 1980.370, requires the lender/servicer to "...perform those services which a reasonable and prudent lender/servicer would perform in servicing its own portfolio of loans that are not guaranteed." This condition applies as well to REO disposition practices.

Under RD Instruction 1980.376(a)(1)(ii), lender/servicers must submit a PDP for Rural Development concurrence within 30 days of liquidation. RD Instruction 1980.302(a) defines liquidation as follows: "Liquidation of the loan occurs when the lender/servicer acquires title to the security...In States providing a post-sale redemption period, the lender/servicer does not typically acquire title until after expiration of the redemption period." Thus, the 30-day time period for submitting a PDP would not begin until after the expiration of any applicable state redemption period or other prevailing state laws affecting acquisition of title. Lender/servicers and Rural Development staff must be familiar with state statutes related to redemption periods and procedures. For example, Alabama has a one-year redemption period, but the purchaser at the foreclosure sale has the right to immediate possession; therefore, a delay in the marketing of the property is not warranted. In some states the redemption period may be reduced if the property is abandoned or if the loan-to-value ratio is greater than a set percentage. Lender/servicers that are unsure whether a redemption period will affect the due date of the PDP should contact Rural Development staff.

A PDP is required prior to loss claim settlement but is not applicable to loss claims involving short sales or third party purchaser foreclosure sales.

## **Contents of a PDP**

PDPs should contain all of the elements listed below. Supporting documentation should be held in the lender/servicer file for clarification/questions surrounding the PDP (i.e. the appraisal to support questionable listing prices) or after submission of the loss claim and provided to Rural Development upon request.

### **➤ Borrower Information:**

- Borrower's name
- Borrower SSN
- Borrower ID Number (new USDA number and not the SSN)
- Date of the plan.

### **➤ Lender/servicer Information:**

- - Servicer and Holder's name and tax identification number(s).
  - Contact person's name, telephone number, fax number, and e-mail address.
- **Loan and Property Information:**
  - Lender/servicer's loan number.
  - Property street address including county.
  - Date of foreclosure sale.
  - REO acquisition date, taking into account any redemption period or completed eviction.
- **Property Value Summary:**
  - Two approaches to value should be obtained and the preferred method requested by Rural Development is an interior appraisal and Broker's Price Option (BPO).
  - When an appraisal is obtained include the appraisal date, "as is" and "as repaired" values, the estimated cost of any repairs, and the appraiser's contact information.
  - When a BPO is obtained include the BPO date, "as is" and "as repaired" values, the estimated costs of any repairs, and the contact information of the person who completed the BPO.
  - An itemization of the cost of any emergency maintenance necessary to secure the property and/or repairs necessary to market the property.
  - An itemization of the cost of any planned capital improvements, including the expected amount of property value to be added.
- **Listing Summary:**
  - If an asset management company is involved, provide the company name, the name of the contact person or asset manager, and telephone number. **NOTE:** asset manager costs are not a reimbursable expense in the loss claim.
  - Real estate agent's name, telephone, and fax number.
  - Local listing agency name, city and state.
  - Proposed marketing strategy, including techniques to be used such as: an exclusive broker, open, or multiple listings; if the property will be sold "as-is" or "as improved"; the proposed advertising methodology (i.e. open house, broker tour, and any media or publicity frequency, including signs); and any financing or seller concessions will be offered.
  - Any anticipated marketing expenses, including proposed advertising, real estate commissions, seller concessions, and any contributions to closing costs.
  - A statement of listing price and expected marketing time, minimum acceptable price or other bid acceptance policy; for example, if a percentage of the listed price will be used, or if a lower acceptable bid is contingent on marketing time.
  - Any other information related to the sale that might impact the amount of loss.

Rural Development anticipates that a lender/servicer should list and sell REO, given prevailing market conditions, in a manner that maximizes recovery and minimizes the loss claim payment. To accomplish this, the lender/servicer may offer concessions, when warranted by market

conditions, which are reasonable and customary for the area. Concessions may include closing costs and additional property improvements unless repairs were warranted prior to marketing the property. Rural Development may consider on a case-by-case basis concessions which are beyond what is reasonable and customary for the area.

The lender/servicer may use the PDP worksheet (Attachment 1) or another acceptable format which includes all required data elements noted above. Additional pages can be added to complete the plan as necessary. The Rural Development Centralized Servicing Center staff receives PDPs and any supporting documentation via the fax server telephone number (314) 457-4463 or (314) 457-4473. The Guaranteed Rural Housing Servicing Contact Information is located at the [USDA LINC Training and Resource Library](#).

### **Review and Provide Concurrence with a PDP**

When a lender/servicer submits an acceptable PDP, Rural Development is not required to provide written concurrence. Rural Development staff uses the information provided on the PDP to populate the Guaranteed Loan System (GLS) Add/Update Property Disposition Summary within five days of PDP receipt. Rural Development staff will contact the lender/servicer for clarifications, additional information, or provide recommendations; however, if contact is not made and concurrence is not received within five business days after Rural Development receipt of the PDP, it can be implemented by the lender/servicer. Rural Development reserves the right to reject a plan that indicates a deficiency or departure from prudent disposition practices. Rural Development review and acceptance of a PDP does not necessarily mean that all expenses associated with the plan will be reimbursable at the time of filing the loss claim. Reimbursable expenses must be reasonable and customary.

### **Revise Property Disposition Plan and Reporting Loan Status**

After implementation of the initial PDP, the lender/servicer will revise and submit updates for any significant deviation(s) from the initial plan.

Lender/servicers report to Rural Development according to 1980.370(d). Monthly default and quarterly loan status reporting must be maintained during the life of the loan and during the REO marketing period.

### **Loss Claim Review Requires Property Disposition Summary**

Rural Development staff must obtain property disposition summary information from the lender/servicer in order to review and populate the GLS Add/Update Property Disposition Summary information which is integral to the loss claim review process. Rural Development staff are responsible for reviewing property inspection documentation with regard to occupancy or possession status, redemption and/or eviction actions, at the time the loss claim is filed. Staff will also use property inspection reports to determine whether property deterioration or damage

was attributable to the lender/servicer's failure to protect and preserve the property during liquidation or after acquisition of REO.

If a PDP was not submitted prior to the loss claim submission, the lender/servicer is required to submit a disposition summary addressing the contents of a PDP, including actual marketing activities, prices, and expenses. A loss claim may not be reduced or denied solely for failure to submit a plan before the property is sold.

Under RD Instruction 1980.376(b), in order to reduce or deny a claim, Rural Development must make a connection between a lender/servicer's actions or lack of action and the amount of the loss. Rural Development will monitor lender/servicers for compliance of timely property inspections, actions to gain physical possession of REO, and submission of property disposition plan requirements.

### **Administrative Notice distribution to Lender/servicers**

Lender/servicers will receive electronic notification of the issuance of this AN in the Single Family Housing Servicing News. This electronic notification is available to lender/servicers that sign up for program changes and notices at [www.rdlist.sc.egov.usda.gov/listserv/mainervlet](http://www.rdlist.sc.egov.usda.gov/listserv/mainervlet). Additionally, copies of the AN can also be obtained at the Rural Development web site, [http://www.rurdev.usda.gov/regs/an\\_list.html](http://www.rurdev.usda.gov/regs/an_list.html).

### **For Further Information:**

Questions may be directed to Michelle Corridon or Susanne Wilson of the Guaranteed Loan Division. The telephone number is (202) 720-1452 or email [michelle.corridon@wdc.usda.gov](mailto:michelle.corridon@wdc.usda.gov) or [susanne.wilson@wdc.usda.gov](mailto:susanne.wilson@wdc.usda.gov).

Attachment



United States Department of Agriculture  
Single Family Housing Guaranteed Loan Program

## Property Disposition Plan Worksheet

<b>Part A. Borrower Information</b>			
Borrower:		Borrower SSN:	Plan Date:
<b>Part B. Lender Information</b>			
Servicer/Holder Name:		Prepared by:	
Tax ID Number:	Telephone Number:	Fax Telephone Number:	E-mail:
<b>Part C. Loan and Property Information</b>			
Lender Loan Number:		Borrower ID: (Unique USDA Borrower ID - Not SSN)	
Street Address:			
City:	State:	Zip Code:	
REO Date:	Eviction Completed Date (if applicable):	County:	
<b>Part D. Property Value Summary</b>			
Appraisal Date:	Appraised "As Is" Value: \$	Appraised "As Repaired" Value: \$	Estimated Cost of Repairs: \$
Appraiser:	Appraisal Company Name:	Telephone Number:	Foreclosure Date:
BPO Date:	BPO "As Is" Value: \$	BPO "As Repaired" Value: \$	Estimated Cost of Repairs: \$
List Planned Repair(s) and Amount(s) from BPO and/or Appraisal, including any emergency maintenance, if applicable:			\$
			\$
			\$
			\$
			\$
<b>Part E. Listing Summary</b>			
Asset Management Company Name:		Contact Name:	Asset Manager's Telephone No.:
Real Estate Agent:		Agent's Phone No.:	Agent's Fax No.:
Local Listing Agency Name:		Listing Agency City and State:	
Marketing Strategy: As-Is or As-repaired (circle) Advertising Methodology: (Provide detail in comment section.)	Suggested List Price: \$	List Price Reduction(s): Percentage: % and Frequency (days):	MLS Listing: Select: Yes or No
Price/Bid Policy: Min. Acceptable Price \$ or %, Mktg Time Contingency: (days):		Suggested Sales Commission: % or \$	Seller Concessions, if applicable: %
Estimated 6 month REO Expenses Anticipated: Initial Cleaning \$ Securing \$ Utilities \$ Lawn Service \$ Winterization \$ Other (Explain) \$ Total \$		Additional Comments:	
This plan should be reviewed and approved by the Agency within five (5) business days from the date of receipt. The plan may be implemented unless Agency provides alternative recommendations. Resubmit plan for concurrence to indicate changes in marketing strategy during the marketing period.			
Authorized Lender's Signature		Print or Type Name	Date
Agency Approval Official		Print or Type Name	Date